

Jonathan O. Peña, Esq.
CA Bar ID No.: 278044
Peña & Bromberg, PLC
2440 Tulare St., Ste. 320
Fresno, CA 93721
Telephone: 559-439-9700
Facsimile: 559-439-9723
Email: info@jonathanpena.com
Attorney for Plaintiff, Margarita V Luna

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA
FRESNO DIVISION

MARGARITA V. LUNA,

Plaintiff,

v.

KILOLO KIJAKAZI, Acting
Commissioner of Social Security,

Defendant.

Case No. 1:20-cv-01213-EPG

STIPULATION FOR THE AWARD AND
PAYMENT OF ATTORNEY FEES AND
EXPENSES PURSUANT TO THE EQUAL
ACCESS TO JUSTICE ACT; ORDER

(ECF No. 31)

IT IS HEREBY STIPULATED by and between the parties through their undersigned counsel, subject to the approval of the Court, that Plaintiff be awarded attorney fees and expenses in the amount of NINE THOUSAND EIGHT-HUNDRED DOLLARS and 00/100 (\$9,800.00) under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d), and cost in the amount of zero dollars (\$0.00) under 28 U.S.C. §1920. This amount represents compensation for all legal services rendered on behalf of Plaintiff by counsel in connection with this civil action, in accordance with 28 U.S.C. § 2412(d). Thus, Plaintiff withdraws her Motion for Attorneys Fees filed on February 17, 2022. (Dkt. No. 29).

After the Court issues an order for EAJA fees to Plaintiff, the government will consider the matter of Plaintiff's assignment of EAJA fees to counsel. Pursuant to *Astrue v. Ratliff*, 560 U.S. 586, 598, 130 S.Ct. 2521, 177 L.Ed.2d 91 (2010), the ability to honor the assignment will depend on whether the fees are subject to any offset allowed under the United States Department of the

Treasury's Offset Program. After the order for EAJA fees is entered, the government will determine whether they are subject to any offset.

Fees shall be made payable to Plaintiff, but if the Department of the Treasury determines that Plaintiff does not owe a federal debt, then the government shall cause the payment of fees, expenses and costs to be made directly to Counsel, pursuant to the assignment executed by Plaintiff. Any payments made shall be delivered to Plaintiff's counsel, Jonathan O. Peña.

This stipulation constitutes a compromise settlement of Plaintiff's request for EAJA attorney fees, and does not constitute an admission of liability on the part of Defendant under the EAJA or otherwise. Payment of the agreed amount shall constitute a complete release from, and bar to, any and all claims that Plaintiff and/or Counsel including Counsel's firm may have relating to EAJA attorney fees in connection with this action.

This award is without prejudice to the rights of Counsel and/or Counsel's firm to seek Social Security Act attorney fees under 42 U.S.C. § 406(b), subject to the savings clause provisions of the EAJA.

Respectfully submitted,

Dated: March 2, 2022

/s/ Jonathan O. Peña
JONATHAN O. PEÑA
Attorney for Plaintiff

Dated: March 2, 2022

PHILLIP A. TALBERT
United States Attorney
PETER K. THOMPSON
Acting Regional Chief Counsel, Region IX
Social Security Administration

By: * Chantal R. Jenkins
Chantal R. Jenkins
Special Assistant U.S. Attorney
Attorneys for Defendant
(*Permission to use electronic signature authorized by
Assistant Regional Counsel David Priddy on Chantal
Jenkins' behalf on March 2, 2022).

ORDER

Based upon the parties' Stipulation for the Award and Payment of Equal Access to Justice Act Fees and Expenses (ECF No. 31), IT IS ORDERED that fees and expenses in the amount of NINE THOUSAND EIGHT-HUNDRED DOLLARS and 00/100 (\$9,800.00) as authorized by the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d), be awarded subject to the terms of the Stipulation. Further, the Clerk of Court is directed to designate the motion for attorney fees (ECF No. 29) as withdrawn.

IT IS SO ORDERED.

Dated: **March 3, 2022**

/s/ Eric P. Groj
UNITED STATES MAGISTRATE JUDGE